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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,184	11/25/2003	Peter T. Kazlas	H-360	1183
26245	7590	11/20/2006	EXAMINER	
DAVID J COLE E INK CORPORATION 733 CONCORD AVE CAMBRIDGE, MA 02138-1002			NGUYEN, KHIEM D	
			ART UNIT	PAPER NUMBER
			2823	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/707,184	Applicant(s) KAZLAS ET AL.	
	Examiner Khiem D. Nguyen	Art Unit 2823	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Applicants' Argument and Amendment

1. The non-final rejection as set forth in paper No. (040706) mailed on April 13th, 2006 is withdrawn in response to applicants' amendments. A new rejection is made as set forth in this Office Action. Claims (1-15 and 24-26) are pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5-15 and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobsen et al. (U.S. Patent 7,046,328).

In re claim 1, **Jacobsen** discloses a backplane for use in an electro-optic display, the backplane comprising a patterned metal foil (FIG. 16, step 96) having a plurality of apertures extending therethrough (col. 11, lines 13-38), coated on at least one side with an insulating polymeric material (FIG. 16, step 98) and having a plurality of thin film electronic devices provided on the insulating polymeric material (col. 10, lines 56-67 and FIG. 17, step 430).

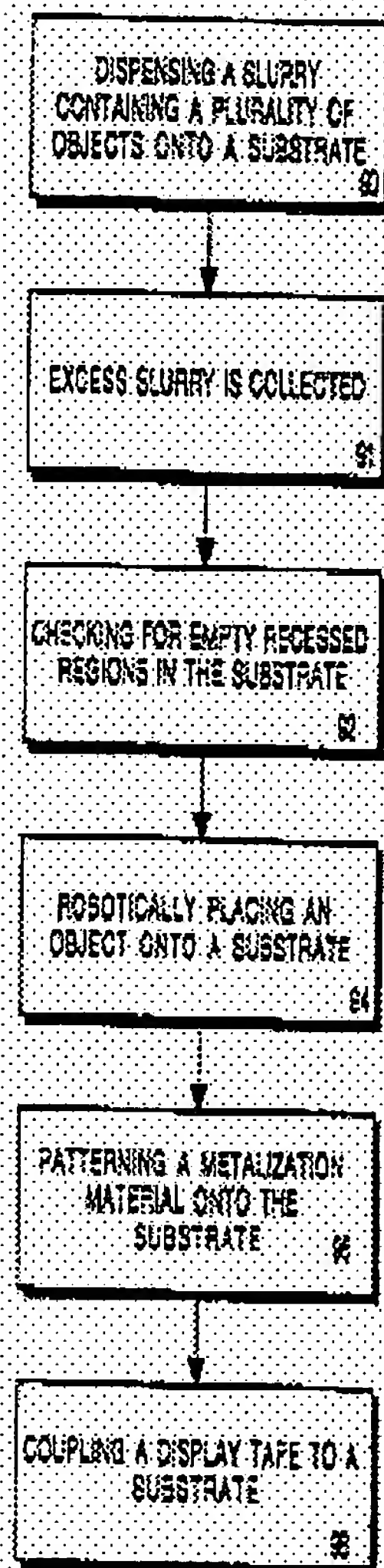


Fig. 16

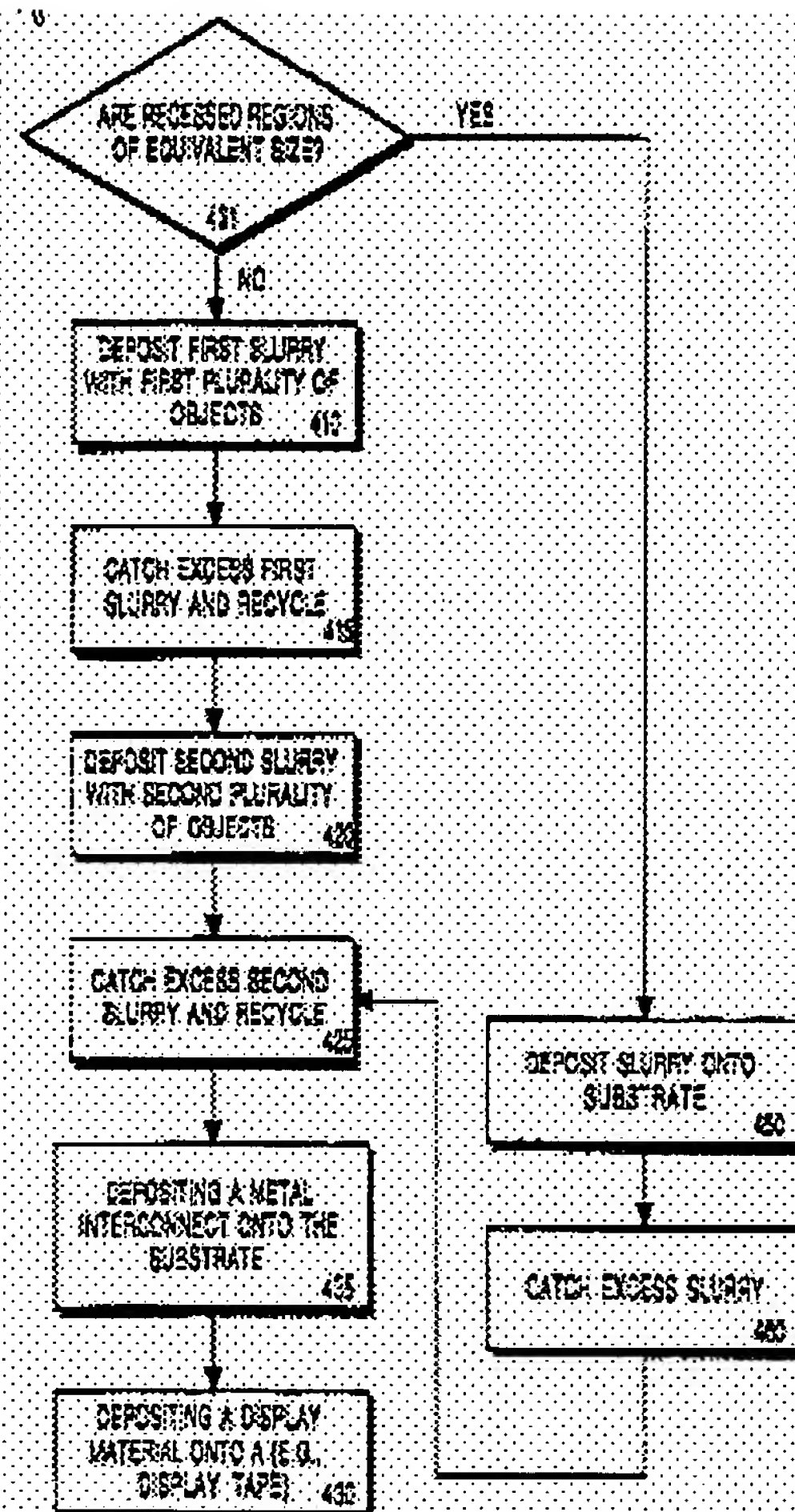


Fig. 17

In re claim 2, as applied to claim 1 above, Jacobsen discloses all claimed limitations including the limitation wherein the apertures are arranged on a rectangular grid (col. 11, lines 13-38).

In re claim 5, as applied to claim 1 above, Jacobsen discloses all claimed limitations including the limitation wherein the patterned metal foil is coated on both sides with an insulating polymeric material (col. 11, lines 39-55).

In re claim 6, as applied to claim 5 above, Jacobsen discloses all claimed limitations including the limitation wherein the patterned metal foil is coated on both sides with the same insulating polymeric material (col. 11, lines 39-55).

In re claim 7, as applied to claim 5 above, Jacobsen discloses all claimed limitations including the limitation wherein the patterned metal foil is coated on its two sides with different insulating polymeric materials (col. 11, lines 39-55).

In re claim 8, as applied to claim 1 above, Jacobsen discloses all claimed limitations including the limitation wherein each of the thin film electronic devices lies entirely within the area of one aperture in the metal foil (col. 11, lines 61-66).

In re claim 9, as applied to claim 1 above, Jacobsen discloses all claimed limitations including the limitation wherein each of the thin film electronic devices extends across a plurality of apertures in the metal foil (col. 11, lines 61-66).

In re claim 10, as applied to claim 1 above, Jacobsen discloses all claimed limitations including an electro-optic display comprising a backplane according to claim 1 (col. 8, lines 47-64).

In re claim 11, as applied to claim 10 above, Jacobsen discloses all claimed limitations including the limitation wherein an electro-optic display according to claim 10 comprising an encapsulated electrophoretic electro-optic medium (col. 10, lines 11-39).

In re claim 12, Jacobsen discloses a backplane for use in an electro-optic display, the backplane comprising a metal foil (FIG. 16, step 96) coated on at least one side with an insulating polymeric material (FIG. 16, step 98) and having a plurality of thin film electronic devices provided on the insulating polymeric material (col. 10, lines 56-67 and

FIG. 17, step 430), the backplane further comprising at least one conductive via extending through the polymeric material (col. 11, lines 13-38) and electrically connecting at least one of the thin film electronic devices to the metal foil.

In re claim 13, as applied to claim 12 above, Jacobsen discloses all claimed limitations including the limitation wherein the metal foil serves as at least one of an antenna, an inductor loop, a power plane, a capacitor, a capacitor contact, a pixel electrode, and electromagnetic induction shielding (col. 12, lines 22-34).

In re claim 14, as applied to claim 12 above, Jacobsen discloses all claimed limitations including an electro-optic display comprising a backplane according to claim 12 (col. 8, lines 47-64).

In re claim 15, as applied to claim 14 above, Jacobsen discloses all claimed limitations including the limitation wherein an electro-optic display according to claim 14 in the form a smart card having an electro-optic display thereon, and wherein the metal foil serves to communication between the card and a card reading apparatus (col. 8, lines 47-64).

In re claim 24, Jacobsen discloses an electro-optic display having a metal substrate (FIG. 16, step 96), the display having a central portion comprising an electro-optic material and means for writing an image on the electro-optic material, and a peripheral portion extending around at least part of the periphery of the central portion, the peripheral portion having a plurality of apertures (col. 11, lines 13-38) extending through the metal substrate, by means of which apertures the electro-optic display may be stitched to a flexible medium (col. 10, lines 56-67 and FIG. 17, step 430).

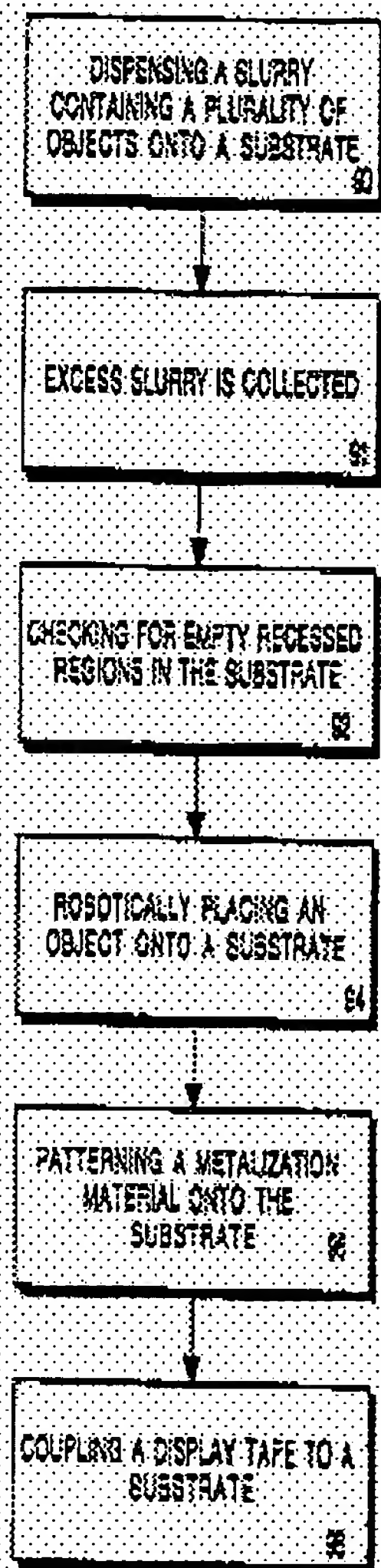


Fig. 16

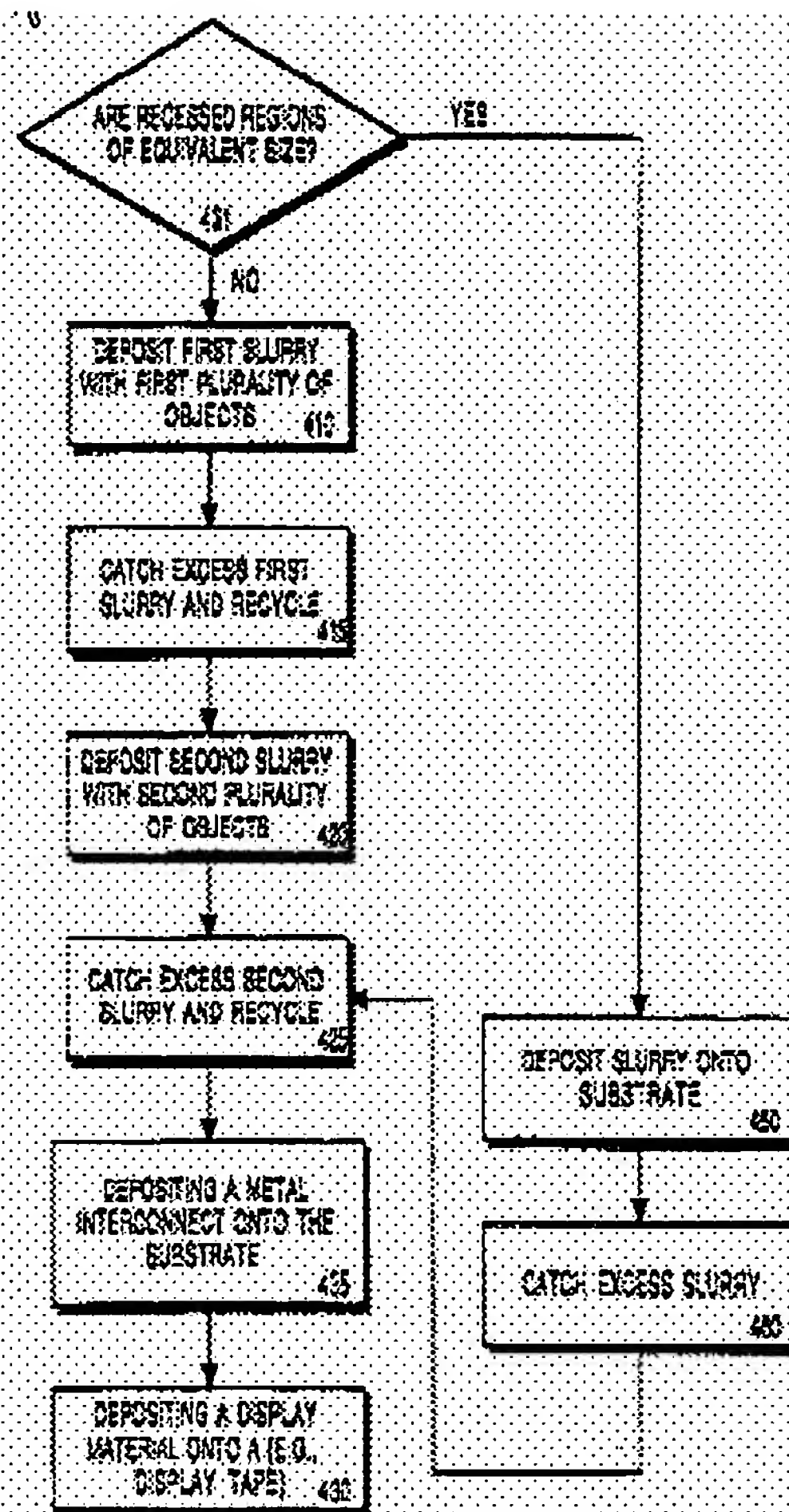


Fig. 17

In re claim 25, as applied to claim 24 above, **Jacobsen** discloses all claimed limitations including the limitation wherein the peripheral portion of such a display is free from the electro-optic material (col. 11, lines 13-55).

In re claim 26, as applied to claim 24 above, **Jacobsen** discloses all claimed limitations including the limitation wherein the peripheral portion extends completely around the central portion so that the entire periphery of the electro-optic display can be stitched to the flexible medium (col. 11, lines 13-55).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. (U.S. Patent 7,046,328).

In re claims 3 and 4, as applied to claim 1 Paragraph 3 above, Jacobsen discloses all the claimed limitations including a backplane comprising a patterned metal foil (FIG. 16, step 96) having a plurality of apertures extending therethrough, wherein the apertures occupying a certain predetermined percentage area of the patterned metal foil (col. 11, lines 13-38) but does not explicitly teach or suggest wherein the apertures occupy at least about 30 percent or 60 percent of the area of the patterned metal foil.

However, there is no evidence indicating the percentage range that the apertures occupy the area of the patterned metal foil is critical and it has been held that it is not inventive to discover the optimum or workable percentage range of a result-effective variable within given prior art conditions by routine experimentation. See MPEP § 2144.05. Note that the specification contains no disclosure of either the critical nature of the claimed dimensions of any unexpected results arising there from. Where patentability is aid to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

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Response to Applicants' Amendment and Arguments

6. Applicant's arguments with respect to claims 1-15 and 24-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khiem D. Nguyen whose telephone number is (571) 272-1865. The examiner can normally be reached on Monday-Friday (8:30 AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Smith can be reached on (571) 272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.N.
November 12, 2006

Brook Kebede
BROOK KEBEDE
PRIMARY EXAMINER